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VIA CM/ECF

Hon. Brian M. Cogan
United States District Judge
United States District Court for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Guinea v. Garrido Food Corp., et al.*
Civil Action No. 19 Civ. 5860 (BMC)

Dear Judge Cogan:

This firm represents the plaintiff in the above-referenced action. In accordance with the August 31, 2020 Order of the Court, Plaintiff submits this letter jointly with Defendants in advance of the September 9, 2020 initial status conference.

I: FACTUAL, JURISDICTIONAL, LEGAL BASIS FOR THE CLAIM(S) AND DEFENSE(S)

Plaintiff: Plaintiff's Fair Labor Standards Act (FLSA) and New York Labor Law (NYLL) claims arise from Plaintiff's employment with Defendants. Plaintiff alleges that he was not paid in accordance with the FLSA and NYLL and seeks unpaid minimum wage, unpaid overtime premiums, unpaid spread-of-hours premiums, wage statement damages, wage notice damages, liquidated damages and attorneys' fees.

The Court's jurisdiction over Plaintiff's FLSA claims arises pursuant to 28 U.S.C. § 1331, 1337 and 1343, as the FLSA is a federal statute. The Court has supplemental jurisdiction over Plaintiff's NYLL claims pursuant to 28 U.S.C. § 1337, as the state law claims arise from the same events as the federal claims.

Defendants: Defendants contend that Plaintiff was properly paid at the proper wage rates for all hours worked in accordance with the FLSA and NYLL.

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II: CONTEMPLATED MOTIONS

The parties contemplate an FLSA § 216(b) motion to conditionally certify a collective and are currently discussing the possibility of stipulating to such a motion.

Plaintiff: Plaintiff anticipates making a motion for Rule 23 class certification after the appropriate discovery.

Defendants: Based upon the information known to Defendants at this time, Defendants anticipate making a motion for summary judgment at the appropriate time.

We appreciate Your Honor's attention to this matter.

Respectfully submitted,

/s/ Brent E. Pelton

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